

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff WSOU Investments, LLC d/b/a Brazos Licensing and Development (“Brazos” or “Plaintiff”), by and through its attorneys, files this First Amended Complaint for Patent Infringement (“Complaint”) against Defendants ZTE Corporation, ZTE (USA), Inc. and ZTE (TX), Inc. (collectively “ZTE” or “Defendants”) and alleges:

NATURE OF THE ACTION

1. This is a civil action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §§ 1, et seq., including §§ 271, 281, 284, and 285.

THE PARTIES

2. Brazos is a limited liability corporation organized and existing under the laws of Delaware, with its principal place of business at 605 Austin Ave, Ste 6, Waco, TX 76701.

3. On information and belief, Defendant Zhongxing Telecommunications Equipment (abbreviated as “ZTE”) Corporation (“ZTE Corp.”) is a Chinese corporation that does business in Texas, directly or through intermediaries, with a principal place of business at ZTE Plaza, Keji Road South, Hi-Tech Industrial Park, Nanshan District, Shenzhen China.

4. On information and belief, Defendant ZTE (USA) Inc. is a New Jersey corporation that does business in Texas, directly or through intermediaries, with a principal place of business in business in Richardson, Texas.

5. On information and belief, Defendant ZTE (TX) Inc. is a Texas corporation that does business in Texas, directly or through intermediaries, with a principal place of business in business in Austin, Texas.

6. All of the Defendants operate under and identify with the trade name “ZTE.” Each of the Defendants may be referred to individually as a “ZTE Defendant” and, collectively, Defendants may be referred to below as “ZTE” or as the “ZTE Defendants.”

JURISDICTION AND VENUE

7. This is an action for patent infringement which arises under the Patent Laws of the United States, in particular, 35 U.S.C. §§271, 281, 284, and 285.

8. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

9. This Court has specific and general personal jurisdiction over each ZTE Defendant pursuant to due process and/or the Texas Long Arm Statute, because each ZTE Defendant has committed acts giving rise to this action within Texas and within this judicial district. The Court’s exercise of jurisdiction over each ZTE Defendant would not offend traditional notions of fair play and substantial justice because ZTE has established minimum contacts with the forum. For example, on information and belief, ZTE Defendants have committed acts of infringement in this judicial district, by among other things, selling and offering for sale products that infringe the asserted patent, directly or through intermediaries, as alleged herein.

10. Jurisdiction is also proper because ZTE Defendants place goods and/or services, including Accused Products, into the stream of commerce knowing they will end up in Texas. Indeed, ZTE Defendants take actions purposefully directed toward Texas to place goods and/or services into the stream of commerce here.

11. On information and belief, ZTE Corp. sells and/or licenses Accused Products directly to a company headquartered in Richardson, Texas—ZTE (USA) Inc.—and ships them to that company’s headquarters in Richardson, Texas.

12. On Information and belief, ZTE Corp. targets other Texas customers through ZTE (USA) Inc.’s website and ships Accused Products to customers in Texas.

13. ZTE Corp. specifically targets Accused Products at individuals and companies in Texas at least by selling and/or licensing Accused Products directly to ZTE (USA) Inc., a consumer and distributor of Accused Products manufactured by ZTE Corp., and by shipping Accused Products to ZTE (USA) Inc. for distribution in Texas.

14. On information and belief, ZTE Corp. assists ZTE (USA) Inc. with troubleshooting or other technical support of ZTE Corp. equipment sold in the United States, including Texas.

15. Both ZTE Corp. and ZTE (USA) Inc. have issued releases from Richardson, Texas marketing ZTE products. These releases are hosted on ZTE Corp.’s website and include a “ZTE Corporation” copyright.

16. On November 20, 2019, ZTE (USA) Inc. issued a release from “RICHARDSON, Texas” advertising Black Friday Deals on several products, including Blade 10 and Axon 10 Pro. The release explains that “ZTE USA” is “headquartered in Richardson, Texas,” provides information to directly contact ZTE (USA) Inc. and indicates that “shoppers can enjoy free

shipping and easy 30 day returns for ZTE products at www.zteusa.com. The release is hosted on ZTE Corp.’s website and includes a “ZTE Corporation” copyright.

17. On October 15, 2019, ZTE Corp. issued a release from “RICHARDSON, Texas” announcing that Blade Vantage 2 would be available in “Verizon stores across the U.S.” and would “operate on Verizon’s national network.”

18. On information and belief, most imports from ZTE Corp. to the United States are shipments to ZTE (USA) Inc.

19. On information and belief, most imports received by ZTE (USA) Inc. are imports from ZTE Corp.

20. On information and belief, ZTE Corp. regularly ships goods to ZTE (USA) Inc.’s headquarters at 2425 N Central Expressway in Richardson, Texas.

21. On information and belief, ZTE Corp. regularly ships goods to other addresses in Texas.

22. Venue in the Western District of Texas is proper pursuant to 28 U.S.C. §§1391 and/or 1400(b). The ZTE Defendants have committed acts of infringement and have places of businesses in this District and/or are foreign entities for purpose of §1391. As non-limiting examples, ZTE (TX) has maintained a place of business at 7000 N MO-PAC EXPRESSWAY 200 AUSTIN, TX 7873; and, ZTE (USA) has maintained a place of business at 6500 River Place Blvd., Austin, TX 78730. ZTE Corporation also describes a “research-and-development center in Austin, Texas.”¹

¹ https://res-www.zte.com.cn/mediares/magazine/publication/tech_en/pdf/201009.pdf

COUNT ONE - INFRINGEMENT OF
U.S. PATENT NO. 8,147,071

23. Brazos re-alleges and incorporates by reference the preceding paragraphs of this Complaint.

24. On April 3, 2012, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 8,147,071 (“the ’071 Patent”), entitled “PROCESSOR FOR AN APPARATUS, AN APPARATUS AND ASSOCIATED METHODS.” A true and correct copy of the ’071 Patent is attached as Exhibit A to this Complaint.

25. Brazos is the owner of all rights, title, and interest in and to the ’071 Patent, including the right to assert all causes of action arising under the ’071 Patent and the right to any remedies for the infringement of the ’071 Patent.

26. ZTE makes, uses, sells, offers for sale, imports, and/or distributes, in the United States, smart projectors (collectively, the “Accused Products”).

27. The Accused Products include Spro series smart projectors, including the Spro 2 and Spro Plus smart projectors.



<https://www.zteusa.com/spro2>.

28. The projector embedded in the Accused Products can project pictures/images onto large surfaces. A processor in the Accused Products provides image signals to the embedded projector for projecting the pictures/images onto the surface.

Turning On/Off the Projector

You can use the projector embedded in your ZTE Spro 2 to project pictures onto large surfaces.

https://www.zteusa.com/media/wysiwyg/spro2-att/ZTE_Spro_2_AT_T_User_Manual_English_-_PDF_-_18.8MB_.pdf (Page 16).

29. The Accused Products include an accelerometer with G-sensor sensitivity, which enables the user to adjust the sensitivity of the accelerometer. The accelerometer with G-sensor sensitivity helps the displacement and speed of movement of the device and produce respective

movement signalling, which permits automatic adjustments during automatic focus, anti-shake and keystone correction functions.

G-sensor sensitivity: Adjust the sensitivity of the accelerometer. It helps the device detect movement so that it can automatically adjust during automatic focus, anti-shake, and keystone correction.

https://www.zteusa.com/media/wysiwyg/spro2-att/ZTE_Spro_2_AT_T_User_Manual_English_-_PDF_-_18.8MB_.pdf (Page 16).

- **Built-in Autofocus and Keystone Correction make projecting on uneven surfaces a breeze.**

<https://www.zteusa.com/spro2>.

30. The Accused Products use the accelerometer with G-sensor sensitivity for automatic adjustment of the image data for projection. The G-sensor sensitivity can be tuned or set by the user to adjust the automatic adjustment of image projection upon displacement of the device from the actual position. For example, if sensitivity is high, the device autocorrects the image in case of a small displacement occurs. Similarly, if the sensitivity is low, the device performs the autocorrection in case of detection of a larger displacement. The G-sensor sensitivity can be tuned or set by a user.

31. When the device moves from one position to another, the projection changes accordingly to correct the distorted image. The device uses various functions such as autofocus, anti-shake and keystone correction which helps in producing an associated corrected and better image upon detection of any displacement by the sensor.

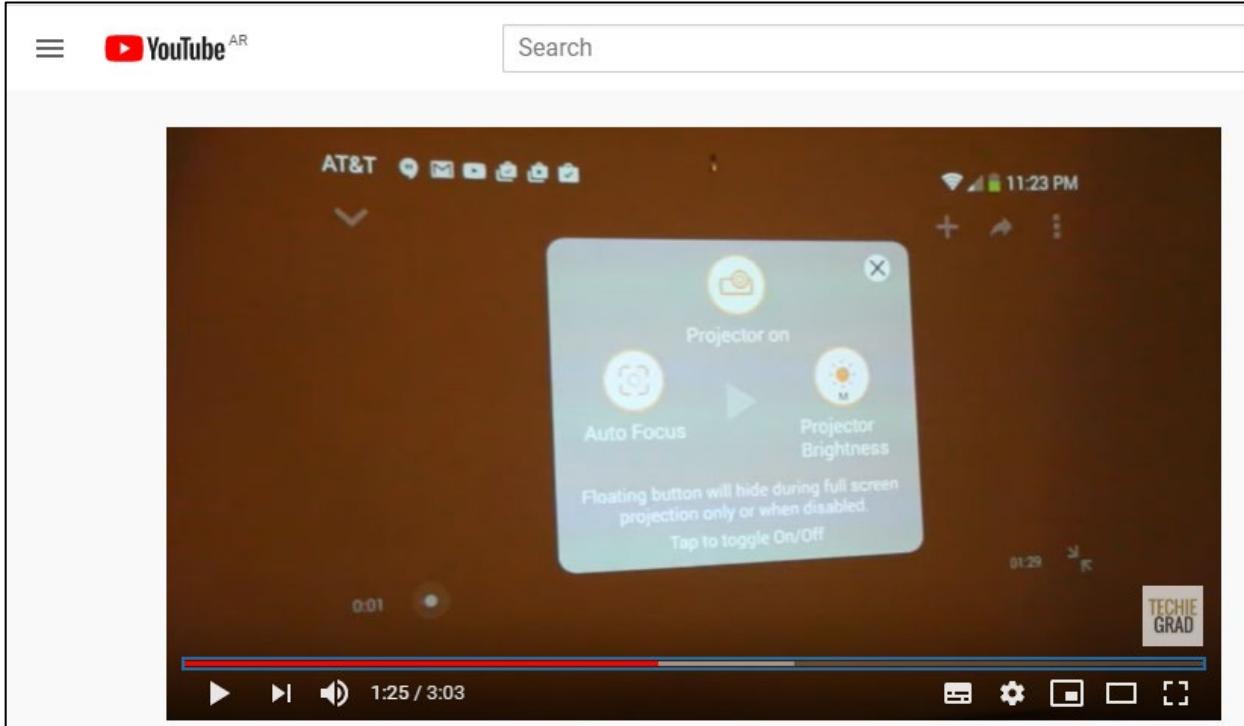
G-sensor sensitivity: Adjust the sensitivity of the accelerometer. It helps the device detect movement so that it can automatically adjust during automatic focus, anti-shake, and keystone correction.

https://www.zteusa.com/media/wysiwyg/spro2-att/ZTE_Spro_2_AT_T_User_Manual_English_-_PDF_-_18.8MB_.pdf

att/ZTE_Spro_2_AT_T_User_Manual_English - PDF - 18.8MB.pdf (Page 16).

- **Built-in Autofocus and Keystone Correction make projecting on uneven surfaces a breeze.**

<https://www.zteusa.com/spro2>.



<https://www.youtube.com/watch?v=pmRGUjvZquc>.

32. Further, the Accused Products can detect the device's angular movement and adjust the keystone correction accordingly.

degrading visual quality. Without automatic keystone correction With automatic keystone correction Spro 2 has a built-in gravity sensor, which detects the projector's angle of tilt (Vertical: +/- 45 degrees) and adjusts the keystone correction accordingly. The automatic keystone correction can also be performed when you project the image onto the ceiling or floor. You can enable automatic keystone correction in the Settings menu after turning on the projector.

<https://www.slideshare.net/sokshitha/mobile-world-no2-2016-zte-spro-plus> (Page 6-7).

33. The Accused Products may also include an eye protection feature, which comprises auto brightness reduction, whenever the device is picked up.

13. FOCUS 13 children. Therefore, we have provided an eye protection feature. Whenever the projector is picked up, its brightness reduces automatically. Moreover, we have provided more color choices for Spro 2, including silver, gold, and dark-blue, to give it a high-tech feel. Some

<https://www.slideshare.net/soksinha/mobile-world-no2-2016-zte-spro-plus>.

34. In view of preceding paragraphs, each and every element of at least claim 13 of the '071 Patent is found in the Accused Products.

35. ZTE has and continues to directly infringe at least one claim of the '071 Patent, literally or under the doctrine of equivalents, by making, using, selling, offering for sale, importing, and/or distributing the Accused Products in the United States, including within this judicial district, without the authority of Brazos.

36. ZTE has received notice and actual or constructive knowledge of the '071 Patent since at least the date of service of this Complaint.

37. Since at least the date of service of this Complaint, through its actions, ZTE has actively induced product makers, distributors, retailers, and/or end users of the Accused Products to infringe the '071 Patent throughout the United States, including within this judicial district, by, among other things, advertising and promoting the use of the Accused Products in various websites, including providing and disseminating product descriptions, operating manuals, and other instructions on how to implement and configure the Accused Products. Examples of such advertising, promoting, and/or instructing include the documents at:

- <https://www.zteusa.com/spro2>
- https://www.zteusa.com/media/wysiwyg/spro2-att/ZTE_Spro_2_AT_T_User_Manual_English - PDF - 18.8MB .pdf
- <https://www.slideshare.net/soksinha/mobile-world-no2-2016-zte-spro-plus>

38. Since at least the date of service of this Complaint, through its actions, ZTE has contributed to the infringement of the '071 Patent by having others sell, offer for sale, or use the

Accused Products throughout the United States, including within this judicial district, with knowledge that the Accused Products infringe the '071 Patent. The Accused Products are especially made or adapted for infringing the '071 Patent and have no substantial non-infringing use. For example, in view of the preceding paragraphs, the Accused Products contain functionality which is material to at least one claim of the '071 Patent.

JURY DEMAND

Brazos hereby demands a jury on all issues so triable.

REQUEST FOR RELIEF

WHEREFORE, Brazos respectfully requests that the Court:

- (A) Enter judgment that ZTE infringes one or more claims of the '071 Patent literally and/or under the doctrine of equivalents;
- (B) Enter judgment that ZTE has induced infringement and continues to induce infringement of one or more claims of the '071 Patent;
- (C) Enter judgment that ZTE has contributed to and continues to contribute to the infringement of one or more claims of the '071 Patent;
- (D) Award Brazos damages, to be paid by ZTE in an amount adequate to compensate Brazos for such damages, together with pre-judgment and post-judgment interest for the infringement by ZTE of the '071 Patent through the date such judgment is entered in accordance with 35 U.S.C. §284, and increase such award by up to three times the amount found or assessed in accordance with 35 U.S.C. §284;
- (E) Declare this case exceptional pursuant to 35 U.S.C. §285; and
- (F) Award Brazos its costs, disbursements, attorneys' fees, and such further and additional relief as is deemed appropriate by this Court.

Dated: November 6, 2020

Respectfully submitted,

/s/ James L. Etheridge

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